Joseph J. Fox

February 27, 2018

Via -Fax

HARD COPY

Mr. Brent J. Fields
Office of the Secretary
U.S. Securities and Exchange Commission
100 F. Street, NE
Washington, DC 20549-1090
Facsimile: (202) 772-9324

Re: In the Matter of Joseph J. Fox
Administrative Proceeding File No. 3-16795

Dear Mr. Fields,

On May 8, 2017, I submitted to the Commission a Motion for Reconsideration of their March 24, 2017 Opinion, that upheld the ALJ's "Initial Decision" finding that it was in the publics interest to impose a 5-year collateral bar on me. I have attached the Motion for Reconsideration to this correspondence.

In this Motion to Reconsider, I detailed several manifest errors, that clearly lead the Commission to its decision to codify the Initial Decision.

For more than 7 months, I waited for a ruling. On December 5, 2017, I was informed that due to a lawsuit against the SEC, there was going to be a process whereby the ALJ's would need to ratify their previous rulings. I promptly called the office of the Secretary, as well as the office of the ALJ, to inquire as to how this would affect me and my outstanding Motion to Reconsider. Unfortunately, no one was sure of the answer.

Ultimately, I was told that there would be a conference call with ALJ Elliott, the lawyers from the Division of Enforcement and myself, to discuss the process. I participated in that call. I respectfully asked ALJ Elliott for some clarification on why after denying the Division's Motion for Summary Disposition, that he reversed course just a few weeks later without learning any new facts to prove scienter.[1] ALJ Elliott refused to answer. During that call, I respectfully asked ALJ Elliott if he could order an in-person hearing with oral arguments. He promptly denied this request.

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[1] To be clear, not only did ALJ Elliott grant the Motion for Summary Disposition, he chose to rule that my unintentional violation of Section 5 deserved a five-year collateral bar. ("***There is no evidence that Fox intentionally violated Section 5, and Fox vigorously disputes that he did so.***" Pg. 5 of the Initial Decision.)

Joseph J. Fox

As ordered, on January 6, 2018, I submitted a letter that detailed why the Initial Decision issued on April 25, 2016 should be stricken, and why the March 16, 2016 Order that originally denied the Divisions effort to impose a collateral bar on me should now be considered the Initial Decision. I have attached the January 6, 2018 letter to this correspondence.

ALJ Elliott chose to ratify his April 25, 2016 Initial Decision without any changes.

Afterwards, I once again contacted the office of the Secretary to find out what the next steps would be. In other words, does the Commission put out an entirely new Opinion? Or does original Opinion stand? Unfortunately, no one in the office of the Secretary could provide me with an answer.

Because of my uncertainty of how this process is working, I am submitting this letter and its attachments. I respectfully ask the Commission to consider both my May 8, 2017 Motion to Reconsider the original March 24, 2017 Opinion, as well as my January 6, 2018 letter to the ALJ, and to once and for all DENY the Division of Enforcement's Motion for Summary Disposition with Prejudice.

Lastly, since I truly believe that it would be the best way to achieve a fair and just outcome, I respectfully request to have in-person hearing in front of the Commission.

Please feel free to contact me if you have any questions.

Respectfully,

Joseph J. Fox
6444 E. Spring St.
Unit #624
Long Beach, CA 90815
(323) 821-0602
[redacted]@gmail.com

Joseph J. Fox

January 5, 2018

Via E-Mail and USPS

Via Facsimile
Mr. Brent J. Fields
Office of the Secretary
U.S. Securities and Exchange Commission
100 F. Street, NE
Washington, DC 20549-1090
Facsimile: (202) 772-9324

Re: In the Matter of Joseph J. Fox
Administrative Proceeding File No. 3-16795

Dear Mr. Fields,

Attached you will find a letter from me to Judge Elliot in response to his December 5, 2017 Notice to the Parties and Order Following Remand. I have also attached a Proposed Order Ratifying the ALJ's March 16, 2016 Order Denying the Division's Motion for Summary Disposition, and revising it to be the Initial Decision, as well as striking from the record the previous initial decision issued on April 25, 2016, along with all subsequent Orders, to be filed in the above matter.

Please feel free to contact me if you have any questions.

Respectfully,

Joseph J. Fox
6444 E. Spring St.
Unit #624
Long Beach, CA 90815
(323) 821-0602
[redacted]@gmail.com

Joseph J. Fox

Via E-Mail and USPS January 5, 2018

Mr. Cameron Elliot
Administrative Law Judge
U.S. Securities and Exchange Commission
100 F. Street, NE
Washington, DC 20549-1090

Re: In the Matter of Joseph J. Fox
Administrative Proceeding File No. 3-16795

Dear Judge Elliot:

On November 30, 2017, the Commission issued an order ratifying the prior appointment of its administrative law judges to preside over administrative proceedings. See In re: Pending Administrative Proceedings, Securities Act Release No. 10440 (Nov. 30, 2017). As applied to this proceeding, the order directs the administrative law judge to determine, based on a *de novo* reconsideration of the full administrative record, whether to ratify or revise in any respect all prior actions taken by any administrative law judge during the course of this proceeding. Id. At 1-2.

It is understood that the Administrative Law Judge (ALJ) should conduct a *de novo* review of the administrative record, engage in an independent evaluation of the merits through the exercise of detached and considered judgment, and then determine whether prior actions should be ratified and affirmed, and/or revised. This process ensures "***that the ratifier does not blindly affirm the earlier decision without due consideration***." Advanced Disposal Services East, 820 F.3d at 602-03.

I submit that a detached and considered judgment, after an independent evaluation of the merits, should conclude that the ALJ's March 16, 2016 Order Denying the Division's Motion for Summary Disposition was the true and correct ruling, and should be made final. The previous initial decision issued on April 25, 2016, along with all subsequent Orders, should be stricken from the record.

As previously disclosed, due to my financial condition, I have been forced to act completely *Pro se* during the entirety of these proceedings. I ask the ALJ to consider the facts and evidence laid out in the Motions that I have submitted after the issuance of the Initial Decision. In these motions, there is a considerable amount of new information (along with evidence) that was not included in the various filings prior to the Initial Decision.

These motions include:

- May 6, 2016 – Respondent's Motion to Correct Manifest Errors
- June 10, 2016 – Respondent Fox's Petition for Review of the Initial Decision
- August 1, 2016 – Respondent's Brief in Support of the Petition for Review of the Initial Decision
- September 22, 2016 – Respondent's Reply Brief in Support of Petition for Review of Initial Decision
- October 3, 2016 – Respondent's Combined (1) Response to Division's Motion to Strike Fox's Reply Brief in Support of his Petition for Review, and (2) Motion Under Rule 452 of the Rules of Practice to Admit Highly Relevant Information
- April 18, 2017 – Respondent's Motion for Reconsideration of the Commission's March 24, 2017 Opinion Imposing a Five-Year Collateral Bar

The ALJ's March 16, 2016 denial of a collateral bar was not only based on the Division's Motion for Summary Disposition, my Response and the Division's Reply Brief, but it was also based on the Division's memorandum and my response filed in accordance with the ALJ's January 25, 2016 Order Requesting Supplemental Briefing. (The ALJ stated "***The Division's motion and its reply brief appear to lack any discussion of Respondent's scienter, one of the factors I must consider when determining whether the sanctions sought by the Division are in the public interest.***")

The March 16, 2016 Order Denying (the Division's) Motion for Summary Disposition was followed by a preconference hearing on March 21, 2016, where Assistant Director Ms. McKinley made the following admission: "***As far as other documents, there really aren't any other documents that we think would assist you with any finding on scienter.***"

Judge Elliot concluded: "***So I'm going to accept as true what I will call the occupational evidence that Mr. Fox has given me today. And on that understanding, the question then is, do I need anymore briefing on that? I think the answer is no. As for scienter, Mr. Fox has convinced me that I've given the Division two bites at the apple, and I think that's enough. I don't really think that I need anymore evidence on this. It sounds like Ms. McKinley's characterization of Mr. Fox's investigative testimony, that even if I were to look at the investigator's testimony, it would not be particularly enlightening. So I'm not going to ask for***

any further briefing, and I don't think there is a need for a hearing at this point. So I will simply decide – I will issue the initial decision based upon the record as it stands."

However, on April 25, 2016, without any new evidence of "*scienter*" or "*occupational evidence*" having been submitted, the ALJ reversed its ruling and issued an Initial Decision that granted the Division's Motion for Summary Disposition and further imposed the entire five-year collateral bar sought by the Division.

I submit that the 5-year collateral bar, or for that matter a bar of any length, is unwarranted and disproportionate, and not in the public's interest. In support, I ask the ALJ to consider the following:

- Statements by Judge Elliot in his April 25, 2016 Initial Decision:
  - "***There is no evidence that Fox intentionally violated Section 5, and Fox vigorously disputes that he did so.***"
  - "***Fox has made some assurances against future violations***"
  - ***"there is little concrete evidence of investor losses"***
  - ***"his violations were not particularly recent.***"

- I was well respected in the financial services and brokerage industry, and I enjoyed a spotless regulatory and legal record over my 20+ year career.

- FINRA reviewed **all** of Ditto Holdings offerings and never once took issue with the fact that Ditto Holdings sold shares to non-accredited investors under Rule 506, while not having audited financial statements for the parent Company.

- I have accepted responsibility from the moment the SEC made us aware of the deficiency in our financial disclosures to non-accredited investors.[1]

- I did not "willfully violate" the federal securities laws, as understood by Congress in 1934.[2] It is not realistic to believe that when Congress passed the Securities Exchange Act in 1934, that they believed that the law allowed for someone who

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[1] It is well documented that I offered to buy back shares from the two individuals that purchased some of my shares who were non-accredited investors. It is also well documented that the Company and I agreed from the beginning of the investigation, that we would only accept investments from accredited investors (even existing shareholders), until we finished our consolidated audit for Ditto Holdings (which we delivered to shareholders in August 2015). In fact, in lieu of an industry bar, my prior attorneys had made a good faith effort to negotiate a "conduct based remedy" where we would only raise capital through the use of a FINRA-member investment banker. This was summarily rejected by the Division.

[2] The inclusion of the word "willful" was based on the assurances by the Division that the following footnote would always be included as the basis of its inclusion:
"***A willful violation of the securities laws means merely 'that the person charged with the duty knows what he is doing'... There is no requirement that the actor 'also be aware that he is violating one of the Rules or Acts.'***"

did not violate the law deliberately and with intent (Webster's Dictionary definition of "willful" in 1934), should be sanctioned with an industry and penny stock bar of any length.

- The five-year collateral bar imposed on me, was equal to or greater than many individuals who had committed fraud and actually harmed the integrity of the markets.[3]

- No one in the nearly 84-year history of the Securities and Exchange Commission has ever received a collateral bar, let alone one for 5-years, for what was an unintentional violation of Sections 5(a) and 5(c) of the Securities Act (which happens to longer be a violation).

In his May 19, 2016 Order Denying my Motion to Correct Manifest Errors, the ALJ, responding to a specific point in my Motion that he reversed his prior ruling on scienter with no evidentiary basis, stated that "***I changed my mind in light of newly discovered case law.***" The ALJ also stated that "***Abraham and Sons Capital, Inc., first came to my attention during the six weeks preceding issuance of the ID.***"[4]

However, in the September 8, 2015 OIP, I agreed to these proceedings to determine what, if any, additional non-financial remedial sanctions are in the public's interest. In connection with these proceedings, it was agreed that, "***(d) the hearing officer may determine the issues raised in the additional proceedings on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence or in-person testimony at a public hearing***." (See OIP section V on pgs. 6,7)

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[3] **Example 1: In the Matter of the Application of THOMAS C. GONNELLA- Opinion of the Commission August 10, 2016 (Admin. Proc. File No. 3-15737) /** Violations: Committed various acts of fraud and caused his firms recordkeeping violations
Sanctions: For fraudulent acts that were clearly intentional and that legitimately harmed the integrity of the markets, Gonnella received a fine of only $82,500, and the same *five-year collateral bar* as I received.

Example 2: In the Matter of the Application ERIC DAVID WANGER For Review of Action Taken by FINRA - Opinion of the Commission September 30, 2016 (Admin. Proc. File No. 3-17226) / Violations: "marking the close," engaging in improper transactions, providing inflated results and failing to comply with Commission filing requirements.
Sanctions: For acts that were clearly intentional and that legitimately harmed the integrity of the markets, Wanger only received a *one-year securities industry bar* and a $75,000 fine.

Example 3: In the Matter of the Application of MITCHELL H. FILLET For Review of Disciplinary Action Taken by FINRA / Violations: Fraud and material misstatements that caused an investor to lose $150,000.
Sanctions: For acts that were clearly intentional and that legitimately harmed the integrity of the markets, Fillet only received a *twelve-month securities industry suspension* and a $10,000 fine.

[4] Since Abraham and Sons Capital was never cited prior to the issuance of the Initial Decision, I was never able to refute its relevance.

The ***Abraham and Sons Capital*** matter was never mentioned by anyone (including the Division or the ALJ) in any way prior to the issuance of the Initial Decision. The outcome of these proceedings should be determined by the facts and evidence, as set forth in the OIP and the various memorandums supporting the Division's Motion for Summary Disposition.

Abraham and Sons Capital is wholly distinguishable from my matter. ***Abraham and Sons Capital*** was centered on violations that occurred while the respondent was acting in a registered capacity. The Division has never argued that any of the violations in the OIP occurred in any registered capacity. Neither the sale of my personal shares, nor the sale of shares in Ditto Holdings, Inc. were ever facilitated by its broker-dealer subsidiary Ditto Trade, Inc. Nor were any transactions facilitated utilizing my personal brokerage license.

Lastly, a review of the matters listed on the SEC.gov website will show, that the SEC has never cited ***Abraham and Sons Capital*** in any prior case that was even close to being factually similar to mine.

Further, on January 20, 2017, the amendment to Rule 504 became effective. The relevant change is the increased maximum offering amount from $1 million to $5 million.[5] The disclosure requirement did not change. I respectfully request that the ALJ rule in favor of a reversal based on the newly amended securities law.

The OIP specifically lists four different offerings conducted by Ditto Holdings, Inc., as well as the sale of some of my personally owned shares.[6] The largest "offering", for common stock, raised $3.7 million from 104 investors, including 31 non-accredited investors.

The violations listed on the OIP were based primarily on a lack of financial disclosures (specifically audited financials) to non-accredited investors, as required under Rule 506.[7]

In other words, none of the acts that were considered violations of the federal securities laws in the September 8, 2015 OIP would be a violation today. When public policy changes in a way that would have significantly affected (and diminished) a violation under the recently amended law, it is reasonable and fair that the courts revisit the prior determination. If, for example, an individual received a penitentiary sentence for possession of a marijuana cigarette mere months before the state of jurisdiction acted to decriminalize possession of consumption

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[5] The SEC publicly announced its proposed changes on October 30, 2015. Obviously, the discussions were going on within the SEC for a considerable length of time prior to the announcement.
[6] I sold these shares with advice of counsel pursuant to Rule 4(1)½.
[7] As stated in footnote 3 of the OIP, Ditto Holdings sole operating subsidiary, Ditto Trade, was audited annually.

amounts, I believe equity would call for a reconsideration of the prior sentence. After all, judges and ALJ's act as an expression of the wishes of the public, and not the wishes of the government, or in this case the Division. Indeed, as Justice Alito has written:

> Our criminal justice system, however, is not purely adversarial. Consider, for example, the typical criminal case with a prosecutor and a defense attorney. At least one of these — the prosecutor — is not supposed to behave like a single-minded opponent or adversary of the defendant. As the Supreme Court has said in a very famous passage that almost every prosecutor and criminal defense attorney in the country has memorized, the prosecutor is not supposed to be the representative of an ordinary party to a controversy. *The objective of the prosecution in a criminal case is 'not that the prosecution shall win the case, but that justice shall be done'* (emphasis added).

I respectfully urge the ALJ to recognize the principle asserted as applicable to an administrative proceeding as well, and to rectify the overzealous efforts of the Division of Enforcement.

Based on the foregoing, I have attached a proposed draft order to this letter that ratifies the ALJ's March 16, 2016 Order Denying the Division's Motion for Summary Disposition as the Initial Decision, as well as striking from the record the previous initial decision issued on April 25, 2016, along with all subsequent Orders.

Respectfully,

Joseph J. Fox
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Unit #624
Long Beach, CA 90815
(323) 821-0602
[redacted]@gmail.com

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16795

In the Matter of

JOSEPH J. FOX,

Respondent.

PROPOSED ORDER RATIFYING INITIAL DECISION

After a *de novo* review and reexamination of the record in these proceedings, I have reached the independent decision to ratify and affirm the prior actions made by an administrative law judge in these proceedings, from the beginning of these proceedings, up to and including the March 16, 2016 Order Denying Motion for Summary Disposition Without Prejudice and Scheduling Prehearing Conference.

Furthermore, the March 16, 2016 Order shall be revised, and from this moment forward, shall be considered the Initial Decision. The previous initial decision issued on April 25, 2016, along with all subsequent Orders, shall be stricken from the record.

These decisions to: a) ratify and affirm all orders up to and including the March 16, 2016 Order, b) revise and rename the March 16, 2016 Order to become the Initial Decision, and c) strike the April 25, 2016 Initial Decision along with all subsequent Orders, are based on my detached and considered judgment after an independent evaluation of the merits.

Cameron Elliot
Administrative Law Judge

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16795

In the Matter of

JOSEPH J. FOX,

Respondent.

CERTIFICATE OF SERVICE

Joseph J. Fox, *Pro se*, certifies that on January 6, 2018, he caused true and correct copies of his Letter and Proposed Order Ratifying the ALJ's March 16, 2016 Order Denying the Division's Motion for Summary Disposition, and revising it to be the Initial Decision, as well as striking from the record the previous initial decision issued on April 25, 2016, along with all subsequent Orders, to be filed in the above matter, to be served on the Division of Enforcement by electronic mail and by USPS to the following addresses:

Jedediah B. Forkner
Counsel for Division of Enforcement
Securities and Exchange Commission
175 West Jackson Boulevard, Suite 1450
Chicago, Illinois 60604
Telephone: 312.886.0883
Fax: 312.353.7398

By: _____
Joseph J. Fox
Pro se Respondent

HARD COPY

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16795

In the Matter of
JOSEPH J. FOX,
Respondent.

Respondent Fox's Motion for Reconsideration of the Commissions March 24, 2017 Opinion Imposing a Five Year Collateral Bar

Pursuant to 17 CFR 201.470(a), Respondent Joseph Fox files this Motion for Reconsideration of the Commissions March 24, 2017 Opinion imposing a five year collateral bar. As a *pro se* Respondent, Respondent's Motion is written in the first person.

Introduction

On March 24, 2017, the Commission issued an Opinion that "***held***" that "***it is in the public interest to bar respondent from the securities industry and from participating in the offering of a penny stock, with a right to reapply after five years.***" In the nearly 83 year history of the Securities and Exchange Commission, there has never been a more disproportionate sanction.

Especially, when one considers the following:

1) I had a more than 20 year unblemished career[1]

2) ALJ Elliot declared in his April 25, 2016 Initial Decision, "***There is no evidence that Fox intentionally violated Section 5, and Fox vigorously disputes that he did so.***"[2]

3) On March 16, 2016, ALJ Elliot ruled against a collateral bar of any length, "***The evidence regarding the remaining two public interest factors is much sparser. The Division's argument that Respondent acted at least recklessly is supported only by reference to his previous work experience and the FINRA licenses he has held at various times in his career...I must view these facts in the light most favorable to Respondent, the non-moving party...Having done so, I find the record insufficient to support summary disposition. Many***

[1] See pages 5 and 6 below.
[2] Page 6. Para 2 of the Initial Decision

people have significant securities industry experience and licenses; this does not mean that they have acted recklessly any time they violate a securities statute or regulation related to their area of practice. More is required to show that Respondent acted with scienter when committing the violations at issue, or that he acted with any particular state of mind at all."

4)e On March 21, 2016, at the conclusion of a pre-hearing conference, ALJ Elliot stated, "*Soe I'm going to accept as true what I will call the occupational evidence that Mr. Fox hase given me today. And on that understanding, the question then is, do I need any moree briefing on that? I think the answer is no. As for scienter, Mr. Fox has convinced mee that I've given the Division two bites at the apple, and I think that's enough. I don't reallye think that I need any more evidence on this. It sounds like Ms. McKinley'se characterization of Mr. Fox's investigative testimony, that even if I were to look at thee investigator's testimony, it would not be particularly enlightening. So I'm not going toe ask for any further briefing, and I don't think there is a need for a hearing at this point.e So I will simply decide – I will issue the initial decision based upon the record as ite stands.*" [3]

5)e While I stand by my prior arguments related to Abraham and Sons Capital not beinge relevant case law, the fact is that the Abraham and Sons case was related to their violationse while acting in a licensed capacity. Whereas any violation of mine was as the CEO ofe Ditto Holdings, in an **unlicensed** capacity. This fact was never refuted by the Division.e

6)e Due to the 2016 rule changes that increased the maximum offering amount under Rule 504e from $1 million to $5 million, none of the acts that are considered violations of the federale securities laws in the March 24, 2017 Opinion, would be a violation today.e

7)e The five-year collateral bar imposed on me, was equal to or greater than many individualse who had committed fraud and actually harmed the integrity of the markets.[4]

---

[3] See March 21, 2016 pre-hearing conference Transcripts, attached hereto as Exhibit 1.

[4] **Example 1: In the Matter of the Application of THOMAS C. GONNELLA – Opinion of the Commission August 10, 2016 (Admin. Proc. File No. 3-15737) /** Violations: Committed various acts of fraud and caused his firms recordkeeping violationse
Sanctions: For fraudulent acts that were clearly intentional and that legitimately harmed the integrity of the markets, Gonnella received a fine of only $82,500, and the same *five year collateral bar* as I received.e

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Sanctions: For acts that were clearly intentional and that legitimately harmed the integrity of the markets, Wangere only received a *one year securities industry bar* and a $75,000 fine.e

Example 3: In the Matter of the Application of MITCHELL H. FILLET For Review of Disciplinary Action Taken by FINRA / Violations: Fraud and material misstatements that caused an investor to lose $150,000.
Sanctions: For acts that were clearly intentional and that legitimately harmed the integrity of the markets, Fillet only received a *twelve month securities industry suspension* and a $10,000 fine.

8)e The Opinion acknowledges that Ditto and I had in-house and outside counsel. As a *Pro se* Respondent, I was unaware of any rule that required me to detail what I meant by "advicee of counsel." With this having the potential to being a significant mitigating factor, I woulde have thought that the Commission would have made an inquiry into the details of my claime of "advice of counsel."e

9)e The Commission does not refute the inaccuracies in my OIP that I detailed in my previouse filings. The only counter is that I agreed that "***the findings of this Order shall be accepted as and deemed true by the hearing officer***." However, I have provided clear evidence thate showed how I was forced to sign an OIP that had errors. My only other choice was to lete the Division continue to withhold my Company's settlement guaranteeing its demisee (which its fragility was proven by its collapse soon after the September 2015 settlement),e and to litigate my matter in court. I do not believe that any fair minded person could saye that I did NOT sign the OIP under duress.e

10) I have accepted responsibility from the absolute very start. It is well documented that Ie offered to buy back shares from the two individuals that purchased some of my shares thate were non-accredited investors. It is also well documented that the Company and I agreede from the beginning of the investigation, that we would only accept investments frome accredited investors (even existing shareholders), until we finished our consolidated audite for Ditto Holdings (which we delivered to shareholders in August 2015). In fact, in lieu ofe an industry bar, my prior attorney's had made a good faith effort to negotiate a "conduct-based remedy" where we would only raise capital through the use of a FINRA membere investment banker. This was summarily rejected by the Division.e

11) That contrary to page 3 paragraph 3 of the Opinion, there was an audit on portions of Dittoe Holdings financials. As stated in the OIP, Ditto Holdings sole operating subsidiary, Dittoe Trade, Inc., was audited annually since 2010.e

Factual Error – Assurance to the Law Judge

On page 8, paragraph 2, the Opinion states the following:

"***Finally, we are concerned that Fox's occupation will present opportunities for future violations. Fox contends that he has left the securities industry and that he voluntarily withdrew his securities licenses. But the Division contends, and Fox does not dispute, that after he made the same representation to the law judge, he applied to FINRA for a Financial and Operations Principal ("FINOP") license. We therefore find no value in Fox's assurances about leaving the industry. To the contrary, given his recent attempt to obtain a FINOP license and his long career in the industry, we find it probable that he will continue in it unless barred.***"

In other words, the Commission believed that I had recently attempted to obtain a FINOP license through FINRA, ***AFTER*** supposedly making a representation to the Law Judge that I had

no intention of returning to the securities industry.[5] Thus rendering any assurance made by me to have "*No value.*"

However, this information is factually incorrect. I never applied to FINRA for anything ***AFTER*** making any representation to the Law Judge. In fact, the last time I applied for anything with FINRA, was in August 2015, which of course, was ***PRIOR*** to these proceedings.[6]

This fact is confirmed by the Division on page 5, line 1 of the transcripts from the March 21, 2016 pre-hearing conference.[7] Obviously, the Commission can also confirm this information with FINRA.

It would appear, that this inaccurate information, along with the resulting belief that my assurances have "No value," had a significant impact on the Commission's decision to impose a five year collateral bar. To better understand the significance of this error, let's take a look at what the Law Judges stated in his March 16, 2016 Order. He stated that in regards to the "***likelihood that his occupation will present opportunities for future violations***", Judge Elliot ruled that "***the present record, viewed in the light most favorable to Respondent.***"

During the pre-hearing conference hearing on March 21, 2016, Judge Elliot did not receive any additional information that would have changed his view on this Steadman factor:

Judge Elliot: **"I'm inclined to accept Mr. Fox's representations about his plans, the current status of his licenses, the current status of his company, and his asserted lack of interest in participating in the securities industry. So I'm going to take that as true and offer that publice interest factors. Is there an objection to that from the Division?"**e

Assistant Director Ms. McKinley responded with: "*No, Your Honor.*"

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[5] To be clear, even though I have made assurances that I have no intention to ever participate in the securities industry, I have consistently stated that this does not mean that I can accept, or that I deserve, an industry bar of any length.

[6] For the record, my first communication with the ALJ of any kind, was December 7, 2015 when I asked for an extension to file my Opposition to the Divisions Motion for Summary Judgement, which was not filed until January 12, 2016.

[7] See March 21, 2016 pre-hearing conference Transcripts, attached hereto as Exhibit 1.

Judge Elliot concluded: "***So I'm going to accept as true what I will call the occupational evidence that Mr. Fox has given me today. And on that understanding, the question then is, do I need any more briefing on that? I think the answer is no.***"

So, the only facts that changed related to the "***likelihood that [my] occupation will present opportunities for future violations***," is the Commissions incorrect facts that I had misled the Law Judge.

False Statement – FINRA Bar is an Aggravating Factor

Of all of the factual issues with the Opinion, this is the one that bothers me the most.

On page 9, para. 4, the Opinion makes its most egregious false statement:

"***Fox claims that his clean disciplinary history and absence of customer complaints are mitigating. But as noted above, Fox's disciplinary history is not clean; in 2016, FINRA barred him for failing to respond to a request for information. This is an aggravating factor.***"

Let's get this out of the way first. I was unaware that FINRA had barred me. I first found out about this FINRA bar from the Opinion. I have since contacted FINRA to find out what information request they say I did not respond to. It turns out that I was barred from FINRA for not responding to a request for 3 months of Ditto Trade's bank statements.[8] If I had been aware of this request, it would have taken me no more than 2 hours to have complied.

At the time that FINRA made their information request, I had not been licensed with FINRA for 14 months. As it turns out, they had sent their request to an old address that did not forward. I am certainly aware that there is a FINRA rule that requires individuals to provide an updated address, for two years after they are no longer licensed in any capacity. I was under the impression that they had my current address. I was wrong.

So, while no one can argue that FINRA has barred me, it is completely disingenuous to call it an "***aggravating factor***" in this matter.

[8] See FINRA information request, attached hereto as Exhibit 2.

First, prior to September 2013, when this investigation began due to the false allegations of a former employee[9], I had a 20 year exemplary record with the SEC, FINRA and state regulators. I had conducted millions of trades for customers all over the world as the CEO of two innovative brokerage firms (one of which I took public), and I had no regulatory issue, no customer issue, no issue whatsoever. In fact, I had a well-documented history of always putting the interest of my shareholders, customers, employees and regulators, ahead of my own.

Second, the Notice of Suspension from FINRA was dated May 18, 2016. What does this mean? It means that there was no reason that the Division should have completely ignored my spotless regulatory history during the two years leading up to, and including, the September 8, 2015 OIP.

It means that there was no reason that the ALJ should have completely ignored my spotless regulatory history leading up to, and including, the April 25, 2016 Initial Decision.

It means that there was no reason that the Commission in their Opinion, should have ever called a FINRA bar created by an administrative slip up, that occurred ***AFTER*** a spotless 20+ year career and 2 ½ years of dealing with the SEC in this matter, "***an aggravating factor***."

If there was ever a mitigating factor to be considered, it is this one.

Use of the Word "Willful" in the OIP

The Commission's ability to impose an industry and penny stock bar on me under Section 15(b)(6), relies heavily on whether or not I "***willfully violated***" the federal securities laws. To be more specific, whether or not the OIP stated that I "***willfully violated***" the federal securities laws.

On page 4 para. 1, the Opinion states the following (emphasis added):

[9] Once again, reference to Paul Simons and his malicious efforts, does not lessen my contrition for any violation of any kind.

"Section 15(b)(6) of the Securities Exchange Act of 1934 authorizes us to impose industrye and penny stock bars if we find that (i) Fox willfully violated the federal securities laws; (ii) Fox was associated with a broker or dealer at the time of his misconduct; and (iii) bars are in the public interest. The Order found that Fox willfully violated the federal securities laws and that, at the time of his misconduct, Fox was associated with Ditto Trade—the broker-dealer subsidiary of Ditto Holdings. Thus, we must determine whether bars are in the public interest."

On page 2, para. 1, the Opinion states the following (emphasis added):

"Joseph J. Fox, the CEO of Ditto Holdings, Inc., consented to a Commission order (the "Order") finding that he willfully violated Sections 5(a) and (c) of the Securities Act of 1933 by offering and selling Ditto Holdings shares without registering the offers or sales or meeting an exemption from registration."

On page 3 para. 3, the Opinion states the following (emphasis added):

"The Order concluded that Fox willfully violated Securities Act Sections 5(a) and 5(c)."

Yes, the term "***willfully violated***" was included in the OIP. However, the attached email evidence clearly shows that the term "***willfully violated***" was strenuously objected to by me and my former counsel, and that the Division threatened to both hold off finalizing the Ditto Holdings settlement, as well as to force me into litigation, if I did not accept the terms inclusion.[10]

To be clear, similar to the ALJ belief, the Division never once implied that they believed that any violation was done intentionally. So, it was difficult to understand why it was so important that the term be included.

[10] See various emails between the Division and Stuart Cohn (Ditto Holdings' General Counsel), as well as the Division and my former attorney Mark Stang, attached hereto as Exhibit 3.

However, the Division led me and my counsel to believe that the inclusion of the term "***willfully violated***" didn't mean that I acted with intent. They stated that it was just a formality, and that the following footnote would always be included any time my OIP was referenced:

> ***"A willful violation of the securities laws means merely "'that the person charged with the duty knows what he is doing.'" Wonsover v. SEC, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting Hughes v. SEC, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "'also be aware that he is violating one of the Rules or Acts.'" Id. (quoting Gearhart & Otis, Inc. v. SEC, 348 F.2d 798, 803 (D.C. Cir. 1965))."***
> Obviously, this footnote completely contradicts the actual meaning of the word "***willful***." So,

taking the Division at its word, we agreed to the inclusion of "***willfully violated***" along with its convoluted footnote.

To be clear, neither the Division, the ALJ nor the Commission, ever included the important footnote in any subsequent filings. This allows everyone that reads these filings to believe that I consented to the fact that I actually violated a federal securities law with intent.

More importantly, it gives cover to the ALJ (and ultimately the Commission) to impose a collateral bar against me.

One last point I would like to make on this subject. No one with a straight fact can say that when Congress passed the Securities Exchange Act in 1934, that they believed that the law allowed for someone who <u>did not</u> violate the law deliberately and with intent (Webster's Dictionary definition of "willful" in 1934), should be sanctioned with an industry and penny stock bar of any length.

<u>Conclusion</u>

In filing my Petition for Review of the Initial Decision, I was hopeful that the Commission would consider all of the facts (including ones presented with the Petition) and make a fair and just decision. A decision that the ALJ was correct when, after reviewing ***<u>all</u>*** of the facts, he first denied the Divisions Motion for Summary Disposition.

While I know that the level of bias against me will not be magically corrected by this Motion, it is my duty, as someone who has lived his life as a honest and honorable person, to correct the falsehoods in the Opinion.

I have always been honest with my assurances to everyone at the SEC.

I have always accepted responsibility for any and all unintentional violations.

I did not act with any scienter.

I did not "willfully violate" the federal securities laws, as understood by Congress in 1934.

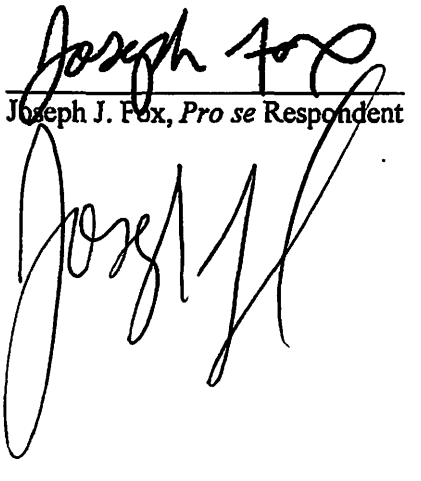
There are several significant mitigating factors that need to finally be considered.

With all that said, according to 17 CFR 201.411(a), "***The Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, an initial decision by a hearing officer and may make any findings or conclusions that in its judgment are proper and on the basis of the record.***"

I respectfully request that the Commission revise their March 24, 2017 Opinion to correct the factual errors and misleading statements. I also request that the Commission reverse the findings in the April 25, 2016 Initial Decision in its entirety, and deny any collateral bar of any length. I also request the reversal of FINRA's bar related to my address deficiency. I further request, that if there is still questions after this Motion for Reconsideration is considered, that I be allowed an in-person hearing, prior to the final ruling on this Motion.

Respectfully submitted,

Dated: April 17, 2017



Joseph J. Fox, *Pro se* Respondent

EXHIBIT 1

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)
) File No. 3-16795
JOSEPH J. FOX)

ADMINISTRATIVE PROCEEDINGS - PRE-HEARING CONFERENCE
PAGES: 1 through 38
PLACE: Securities and Exchange Commission
175 West Jackson Blvd., Room 900
Chicago, Illinois 60604
DATE: Monday, March 21, 2016

The above-entitled matter came on for hearing, pursuant to notice, at 1:00 p.m.

BEFORE (via telephone):
CAMERON ELLIOT, ADMINISTRATIVE LAW JUDGE

Diversified Reporting Services, Inc.
(202) 467-9200

APPEARANCES:

On behalf of the Securities and Exchange Commission:
JEDEDIAH B. FORKNER, Senior Attorney
ANNE C. McKINLEY, Assistant Director
JOHN E. BIRKENHEIER, Supervisory Trial Attorney
Division of Enforcement
Securities and Exchange Commission
175 West Jackson Boulevard
Suite 900
Chicago, Illinois 60604

On behalf of the Respondent (via telephone):
JOSEPH J. FOX, PRO SE

PROCEEDINGS

JUDGE ELLIOT: We're here in the matter of Joseph J. Fox, Securities and Exchange Commission Administrative proceeding ruling. I'm sorry, Administrative Proceeding No. 3-16795.

My name is Cameron Elliot, Presiding Administrative Law Judge. Can we have appearancese from counsel, please?

MS. McKINLEY: On behalf of the Division of Enforcement, you have Anne McKinley, Jed Forkner, and John Birkenheier.

MR. FOX: Your Honor, I'm the respondent, Joseph J. Fox, and I'm here pro se.

JUDGE ELLIOT: All right, very good. Okay. So I sent out my order in which I described where I think the case stands, and I want to be clear from the beginning that when I said at the end of the order that we may need a hearing in this case, I mean that very, very -- I was very deliberate about that.

I was quite serious. We may need a hearing or we may not. It just depends. And the area where I think that I really need some more help is in the two Steadman factors that we discussed in the order, scienter and then essentially Mr. Fox's

professional status, if you will, whether his occupation presents an opportunity for future violations.

One of these issues is uniquely in the control of Mr. Fox; that is, by his occupation, and I understand the parties dispute scienter, but all I really have to go on for scienter is simply what's in the OIP, and then -- I guess it was the uploaded e-mails that Mr. Fox sent out after the OIP issued, and that's it.

So let me first turn to Ms. McKinley. Is there anything more that you can send me, in the way of transcripts or other documentary evidence, or anything else that might shed some light on Mr. Fox's state of mind?

MS. McKINLEY: Your Honor, we believe we do have testimony transcripts from Mr. Fox's testimony during our investigation that does shed light on that issue. To be frank, it doesn't shed a tremendous amount of light, but it may be helpful for you to see. So we're certainly happy to provide that to you.

As far as other documents, there really aren't any other documents that we think would assist you with any finding on scienter. Though,

there is another FINRA filing regarding Mr. Fox's licensure from August of 2015, in which he sought to reinstate his licensing. That also may be of help.

JUDGE ELLIOT: Okay. Well, I'll get to that in a moment, but why don't we do this, I've still got some time left before I have to issue the initial decision. So I think I can consider yet another round of briefing on this issue. I would like to start with that.

If it turns out that I really feel like we have a live animal, I'm at the point now we're probably going to have to ask for an extension of time on the initial decision.

MR. FOX: Your Honor, if I may, this is Joe Fox.

JUDGE ELLIOT: Yes. Hold on just a second, Mr. Fox. Hold on just a second.

MR. FOX: Sorry.

JUDGE ELLIOT: As I was saying, I think I'm probably going to have to ask for an extension if we do end up having a live in-person hearing. So I think on the issue of scienter, I'm probably going to ask the parties to send me some more documents, whatever it may be.

Now, Mr. Fox, you, of course, will get a

chance to submit more evidence, too, but if that doesn't answer your question, or answer the concern you were about to raise, go ahead and tell me what you were about to say.

MR. FOX: Your Honor. Okay, well, thank you very much for this opportunity. And, for the record, I asked for a hearing, in-person hearing, with the Division while we were talking about settlement from the get-go.

I want to be able to get everything out there in the open. Like, many times I volunteered with the Division through the investigation, I volunteered to meet with them. I volunteered information. I've been 100 percent forthcoming.

I asked to have a hearing. They did not want to guarantee a hearing. And I would like to make a statement, if I may, that I think really goes to where we're at in this proceeding, if I may, Your Honor.

JUDGE ELLIOT: Go ahead. Yes, go ahead.

MR. FOX: Thank you, sir. And obviously I've never done this before, and I've never done pro se or not pro se or with an attorney. Excuse me if I'm a little nervous.

On September 8th, an order was finalizing

my settlement discussions with the Division of Enforcement. During the settlement discussions, I pushed for bifurcated settlement with non-monetary sanctions to be determined by Your Honor through the ALJ process.

I'm happy to accept the monetary sanction of $35,000. I asked for the bifurcation, and the Division told us in no uncertain terms, they would not process the agreed-upon settlement for the company until I finalized my own settlements.

Your Honor, since my company was collapsing under the weight of the former employee, who proved to be a false, malicious [redacted], I needed to give my company and shareholders a fighting chance.

And almost as importantly, I should not have to accept any industry suspension for the following reasons: A, I've been an extremely conscientious broker or executive, as I've laid out in detail in my court papers.

B, I have a well-documented career of always putting my customers and shareholders first. C, it's absolutely non-public assessment to suspend me for any period of time.

D, any violations were 100 percent

inadvertent and not done so recklessly. And E, most importantly, I do not do anything with scienter.

So the proceedings can fully determine if there was a heap of a non-monetary assessment, again with the Court setting a briefings schedule.

The Division filed a lengthy motion for summary disposition where they tried to paint me as an unrepentant recidivist and asked for a collateral bar offered by you. I then filed a detailed reply.

The Division then filed its reply where they chose to label me falsely as someone who spent the majority of his career in a, quote, a penny stockbroker.

Although the motion was fully briefed for ruling, this Court, on January 15, 2016, in its effort to leave no stone unturned, entered a new order inviting the SEC to submit a supplemental briefing addressing solely the alleged sinter, a necessary elements of the Division's own claim against me, an element the Division did not revise, let alone prove in its motion.

The Division promptly filed a supplemental brief in support of its motion for summary disposition, which I replied to in detail, as it were, after being fully briefed with the Division's

motion for summary disposition and the supplemental brief in support, and of course my responses.

This Court thoughtfully held that there was no scienter, and the SEC's motion was denied, albeit without prejudice. I respectfully ask the Court to consider entering the final order that denies the motion with prejudice.

The third thing that is on the Division is to prove scienter. The Court ruled against them. You made it quite clear that the scienter is a necessary element, and I quote, you must consider when determining whether the sanctions sought by the Division on the public venture, end quote.

That is in your January 15 order, and you cited two case for the same requirements, the Gary M. Korman case, and the Steadman versus SEC case.

Respectfully, I do not believe it's in the public's best interest to have the matter fully briefed, and then after accepting and finding that an element of the claim had not been proven, have the same claim continue to hearing.

I just don't see how this matter can proceed on these facts, and the failure of the Division to prove scienter not once but twice, to allow a third bite at the apple seems unjustified on

this record.

Most importantly, Your Honor, there is absolutely and unequivocally, as Ms. McKinley just stated, no official documentation, testimony, or fact for that matter, that the Division would be able to provide that would change the fact that there was never any scienter.

If they haven't, Your Honor, which would be impossible because it doesn't exist, they would have certainly already made it available to you, to the Court. I'll end here.

I'm praying with the Court to enter a final order denying the SEC's motion for summary disposition with prejudice. Thank you, Your Honor.

JUDGE ELLIOT: All right, very good. Well, I hear what you're saying, Mr. Fox. Let me hear if the Division has anything to say in response to that. Ms. McKinley?

MS. McKINLEY: Your Honor, first of all, we would respectfully disagree with Mr. Fox's characterization of the Steadman factors and how they are waived to determine whether a bar is in the public interest.

It is a true weighing under the case law, and these aren't elements of a particular claim. So

the factors – while one factor may weigh in favor of the respondent, other factors may weigh in favor of the Division's request for a sanction. So we do disagree with that characterization and feel that really another round of briefing may actually get the information that may assist in making a determination on this issue.

JUDGE ELLIOT: All right.

MR. FOX: Your Honor, if I may.

JUDGE ELLIOT: Go ahead, Mr. Fox.

MR. FOX: Okay, thank you. Your Honor, you made it clear in your initial findings that there was not any evidence, or they did not prove anything. You gave them the opportunity to provide more, if it was necessary, and they did their reply.

They included nothing new, because there was nothing additional; and now, Your Honor, even Ms. McKinley stated, except for what they're saying on August of '15, where I reapplied for the SEC, of which by the way was only done because we would no longer have these Series 27 financial operations principal, and I was dealing with the SEC because no one else was in the company. We were going out of business, and the FINRA knew that.

So it is a mischaracterization of what was

going on, and it never processed through that, nor did I go through this whole MC200 process. I was trying to do what was right for the company, which, Your Honor, I've done for 22 years.

And they've never once ever acknowledged the fact that I have been a conscientious person in this industry for 20 years, not just as a broker, but the CEO of brokerage firms that have been innovative that could have easily had all kinds of [redacted] against them, and I have a spotless compliance record.

I took the company public, Your Honor. I went through the SEC process. I never had an issue. I never had concerns, and I never for one second did anything with intent or scienter. I took responsibility.

Ms. McKinley and Mr. Forkner made it clear or believe that I did not, even though from day one, as testimonywill show, I did make it clear that I took responsibility, if I was using the wrong exemption or the wrong definition within the exemption 504 and 506.

As I showed, Your Honor, there is no information within the study material or the test that breaks down the actual disclosure requirement.

So, Your Honor, clearly there is no additional information of any substance, if at all. You already made it clear, Your Honor, regarding the Steadman case, that scienter is a big factor, and there is no scienter, Your Honor.

JUDGE ELLIOT: Okay. Let me move to the second issue, which is the question of Mr. Fox's occupation.

The evidence that I've seen so far, and I'm looking at the OIP, which of course I can take generally as true, the submissions by Mr. Fox, which I've looked through carefully, just the recent comment by Ms. McKinley just a few moments ago, Mr. Fox's attempt to get another license in August of last year, I have to say that you take all that together, I find myself, frankly, very confused about what is going on with Mr. Fox and his professional status.

So let me just ask you, Mr. Fox, to --

MR. FOX: Okay.

JUDGE ELLIOT: -- tell me about yourself. How do you make a living right now? What is the status of your company? What is the status of whatever licenses you have now or used to have or trying to get? Just tell me about yourself.

MR. FOX: Thank you, Your Honor. Well, as I mentioned, in regards to my license, I withdrew voluntarily in December of 2014. I also made it clear at that time to the SEC that I have no intention of staying in the brokerage business, being in the brokerage business, running a brokerage firm, even though my parent company is an up bearing company at the time, I did own a brokerage firm, but I was not going to be involved in it.

I didn't want to be. I actually hired this guy Paul Simon to become CEO of the brokerage firm, but he failed to get licensing. So the only reason I went back in August because I told FINRA, and they need needed me to do it, we ordered a FINOP.

We had the money to hire an outside FINOP. The company was on verge of collapsing. Somebody had to be the one to communicate with FINRA, during for focus filing and things of that nature. It was a brutal time.

MS. McKINLEY: Mr. Fox, I'm sorry, the court reporter can't take down what you are saying.

JUDGE ELLIOT: Hold on, Mr. Fox.

MS. McKINLEY: I'm so sorry, but the court reporter cannot transcribe. He's moving a little

too quickly, Your Honor. Mr. Fox, could you speak a little more slowly?

MR. FOX: Okay. I'm sorry about that. In Decembereof --

JUDGE ELLIOT: Hold on a second, Mr. Fox. Hold on a second. Let me turn to the court reporter.

Can you read back your transcript, the last part of your transcript that you were able to get down clearly?

(The reporter read back the record.)

JUDGE ELLIOT: Go ahead, Mr. Fox.

MR. FOX: Sorry about that, ma'am. I really apologize. The name is FINRA, F-I-N-R-A, and they regulate the brokerage industry, along with the SEC, of course.

So at the time, we were out of money. The company was on the verge of collapse. I was the only person to be able to speak to FINRA, as we were going through this process. It wasn't like I was trying to be a broker or even the CEO. That was not my objection. FINRA absolutely knew that.

Unfortunately, because I used the word or allowed the word "willful" to be included in my order, only because, of course, the definition in

the footnote, which isn't consistent with the actual definition of wilful, but I understand that, that it would take a process called MC200 to override that, which I did not go down that path; and openly, I let FINRA know I would be communicating with them as a representative, but not as a licensed individual. So that is that.

On December 18th, 2015, we were forced to file a broker-dealer withdrawal, a BDW, with the SEC and FINRA, because we were out of capital. We knew that we were no longer -- we no longer had enough or would no longer have enough proper capital, net capital, to maintain a brokerage firm.

So I talked to FINRA. I let them know. I even let the SEC know, and we had to withdraw. Since then, we tried to figure out if the company could survive as a technology company because as Your Honor hopefully as you read, we did build some incredible technology that did receive some significant media attention.

I did get some attraction with customers, generating millions of dollars in revenue; but, unfortunately, because of the efforts of other people, as well as the weight of the investigations and so on, that I have to say that was brought on by

information by an individual that none of which, as I mentioned in my document, is a part of this process now. It doesn't change the fact we had to deal with that.

My entire company has collapsed. We have four or five judgments from vendors against us. We are trying to figure out if we can figure out where to get the money to file a proper bankruptcy for the company. There is no operations. There is no office. There is no phone.

We are -- our shareholders, and myself, my family, and my mother, we lost our entire investment. I, Your Honor, I am broke. I have nothing. I've been left with nothing.

And I, right now, am living in a house that's owned by my in-laws, thank God. I am living by the grace of my in-laws. I have no job. I can't even apply for unemployment because my last paycheck from the company, even though we were around for these two years, was more than two years ago.

So the State of California said, "Sorry, we cannot give you unemployment." So I have to borrow money even to fill my tank, Your Honor. I have been destroyed by this. My company has been destroyed.

There was never a scienter. There was never an intent. I've been nothing but conscientious for 20 plus years. I have been labeled falsely on several different fronts. I've taken so much abuse from this whole process. Your Honor has been unbelievably fair in its assessment, and I truly believe that, look, I'm not looking to be in the brokerage business, Your Honor.

I will not allow, without a fight, to lose or to be considered someone who should have been barred or banned. And the fact that they were looking for one year, when I asked for the bifurcation, they were looking for one year that I could not accept, and then to go to five years and whatnot, to find various excuses which weren't true to try to be a penny stock guy, even to get that one year.

I mean, this has been an unbelievable circumstance, Your Honor. I've done -- look, I take responsibility for what occurred. I had the SEC review my documents, the same documents, and the same exact circumstances in 1999, and nothing told me otherwise that I was working off the wrong exemption.

I have always looked out for my

shareholders. It's well documented. It's on the SEC's website. I can point to three or four different circumstances, and I've taken as a big fine, which I have not been able to pay. I don't know how I can pay it.

The told the SEC from the Division, excuse, from day one that I don't have the money to pay it. I lost everything. The stock that I sold is gone. I put every last dollar to try to keep the company live, and other people get a waiver after they're fined.

I asked the Division, "Would you consider that?" They said, "No, we won't." So everyone else gets a waiver -- not everyone, but people do, but not Joe. I don't know why, but not Joe.

And so I have taken more for something that was not done with scienter, that was not done advertently, the one that I took responsibility for the, one that I've assured Your Honor and the Division that I would never violate again.

To pile on with a summary disposition for a collateral bar is too much, but Your Honor has ruled now twice, and I've been here, Your Honor. I'm not looking to get back into brokerage. I don't know how I'll do past this moment.

I don't know. I really do not know. I know I don't have money. I know I have to borrow money for anything that I have for needs. I think I'm negative in my one bank account right now, but I will figure it out. And, thank God, I have family that's helpful. Thank God.

Right now I do not know what my plan is, but I can promise you, Your Honor, that it's not going to be in the brokerage business. I've been so abused by a membership organization which, by the way, Your Honor, for 20 plus years I never had one issue, one customer complaint on my FINRA, or on the brokerage side.

Not an issue with arbitration, not a customer complaint, not a single issue after millions of trades with customers. I was so conscientious. I gave away so much money back to customers, whenever there was a technical issue, a trade issue. E*TRADE, Ameritrade, nobody does that, but I did that.

I stood by my customers. I stood by my shareholders, always. So, Your Honor, I don't know what my future is going to be in terms of what I'm going to do. I don't plan on being in the business.

I cannot accept a bar, and if you say to

me, "Joe or Mr. Fox, you tell me right now you're not going to be in the business, I won't bar you. We'll call it a day."e

I'll tell you right now, I'll give you my word. I have no desire, and I have not been in any one of those categories that are included in the collateral bar.

JUDGE ELLIOT: Okay.

MR. FOX: Thank you, Your Honor.

JUDGE ELLIOT: Let me ask a few questions, Mr. Fox. First of all, let me make sure I understand here. The August 2015 application that you made, was that for a FINOP license?

MR. FOX: Yes, Your Honor. I have a Series 28.

JUDGE ELLIOT: Okay.

MR. FOX: Financial operations principal for agency broker.

JUDGE ELLIOT: Oh, I'm sorry. Okay. So you got a license then?

MR. FOX: I've had the license. I got a 27, the bigger one, back in 1995. I took on the 28th in, I think it was, January of 2010, when we decided to get back into brokerage, after an online real estate firm that I tried to take public as

well, and it's on the SEC website. And then so I have the 7, the 24, the 63 and the 28.

JUDGE ELLIOT: Okay.

MR. FOX: I'm sorry.

JUDGE ELLIOT: Those are current right now?

MR. FOX: No, they're not, Your Honor. I do not have any active licenses whatsoever.

JUDGE ELLIOT: Oh, I see. Okay.

MR. FOX: I have not since December of 2014.

JUDGE ELLIOT: All right. So I know there's a difference, at least based on reading the OIP, and all the evidence the parties have submitted, there's a difference between Ditto Holdings and Ditto Trade. You're saying that both of those companies are now out of business?

MR. FOX: Yes, Your Honor.

JUDGE ELLIOT: Okay. And have you ever worked in the industries, other than the brokerage industry?

MR. FOX: None of the industries that are included in the collateral bar, not the municipal bonds business, not the credit rating business, not the investment advisory business, nor have I ever

sold or promoted or offered a penny stock.

So I've never been in any of those, and I have no intention, Your Honor, of doing any of those ever.

JUDGE ELLIOT: Well, okay. What was the share -- what was the typical share price for -- I'm sorry, I can't remember if it was Ditto Trade or Ditto Holdings. You sold one of those stocks. What was the typical share price?

MR. FOX: You're talking about the recent company, or the company we took public, Webb Street Brokerage Firm?

JUDGE ELLIOT: Not Webb Street. The one that's in the OIP. I'm sorry, I forget which one it is. I think it is Ditto Trade, which one -- the one where you sold the stock of that company within the last six years or so.

MR. FOX: Yes, Your Honor. That is Ditto Holdings. Ditto Holdings was a Delaware corporation that wholly owned Ditto Trading, Inc., an Illinois corporation, and was a -- was a member of FINRA, a broker-dealer. That was the parent.

JUDGE ELLIOT: Okay. What was -- did it ever trade at below $5 a trade?

MR. FOX: Your Honor, it was never public.

It was only a private company.

JUDGE ELLIOT: Okay.

MR. FOX: And, Your Honor --

JUDGE ELLIOT: I confess, I'm now completely mystified. Let me turn to the Division.

Can you shed some light on this? Is it your position that Ditto Holdings was a penny stock?

MS. McKINLEY: Your Honor, it is. While Ditto Holdings was not publicly trading during the time, it was offering its shares under Reg D, in a Series 506 offering, as well as some other offerings of Mr. Fox's own personal shares of Ditto Holdings, and all of the shares were sold at prices under $5.

The range I think was from about 50 cents to about a dollar-and-a-half.

JUDGE ELLIOT: Okay. All right. Well, thank you, Mr. Fox. Anything else you want to add?

MR. FOX: Yes, if I may. You know, I think you're as surprised as I was, Your Honor. Not to put words in your mouth, but I'm just blown away by saying that I was a penny stock guy. I was in the penny stock world my whole career, trying to stop me from being in the penny stock business, which was only a label that would hurt me because I've never been in the penny stock busy. I don't

ever plan to be.
I purposely did not even allow many penny stocks to be quoted or purchased on our website as the story in Barron's Magazine showed, and so we're a private company.
There is one line of a reference to a penny stock, and sometimes listed on the SEC website that I was able to find, one line. It said a penny stock is sometimes a private company, but the reality is this is not a penny stock. It was a private company.
I sold some of my founder shares under advice of counsel, under what's known as I believe 401-and-a-half, and the only mistake that was made there, Your Honor, is that my attorney unfortunately – my in-house attorney provided me with the documentation. It did not have a section for being a credit investor.
And I believe the people that bought, because some of them were disingenuous, they already showed they were accredited. I believe they were accredited. I'm sorry that that was missing. I should have known that, but my attorney needs to put that in there.
I stool took responsibility for that, Your

Honor. I offered to pay back the two people for 42 or $47,000. I offered these individuals. They said, "No, it was not going to be part of the settlement." I was willing to repurchase when I had the money, and that was not part of it.
I took responsibility, but I was never a penny stock. My stock was not sold as a penny stock. It was a private company. Nobody, nobody considers us, a private company like ours, to be a penny stock. Your Honor –
JUDGE ELLIOT: Okay. Let me ask one more question. Suppose that someone were to offer you employment as an investment advisor, okay, I mean not individually, but you would be associated with a registered investment advisor, is that the kind of employment that you would be willing to take?
MR. FOX: Absolutely not, Your Honor. I've never acted as an investment advisor. I don't have the proper licensing to be an investment advisor.
I have no plan, nor will I ever, refile anything with FINRA ever, because they also put us through a two-year process just to walk away when it was all done and say, "We'll just defer to the SEC." Even after, even after a global disposition, all of a sudden, "Okay, there obviously is no real need for

this investigation."
I mean, we were coming – people were coming at as from all sides. I have no desire to be in an industry that has no respect for somebody who has been so conscientious, and nobody can say otherwise of how I treated my firm, my customers, my shareholders and my employees.
So, Your Honor, I have no desire, nor will I be, an investment advisor. I'm going to work for an investment advisory firm. I'm not going to work for a municipal bonds company, a credit rating company, and absolutely not a penny stock company, but that does not mean that I can accept a documented suspension for something I don't deserve, Your Honor.
JUDGE ELLIOT: All right. Thank you, Mr. Fox. Ms. McKinley, do you have anything to say about what Mr. Fox has just explained?
MS. McKINLEY: Yes, Your Honor. I guess the one point that we would like to bring to your attention is that Mr. Fox has raised funds and owned four companies over the last approximately 20 years those four companies, two of them have been broker dealers, and directly connected to the brokerage business.

JUDGE ELLIOT: Okay.
MR. FOX: Excuse me, if I may, Your Honor.
JUDGE ELLIOT: Hold on, Mr. Fox. Hold on. Hold on, Mr. Fox. Let me ask a few more things of Ms. McKinley.
So as I understand, I don't mean to put words into Mr. Fox's mouth, but my understanding based on what he just explained is he doesn't know what he's going to do in the future, but he doesn't wish to work in the securities industry anymore.
Do you dispute that, Ms. McKinley?
MS. McKINLEY: This is, frankly, the first time we've heard in detail what his future plans are. We have no way or reason to dispute that.
JUDGE ELLIOT: Okay.
MS. McKINLEY: But I will say, Your Honor, that in December of 2014, Mr. Fox told us at that time, through his attorney, that he never had any intention of being licensed againpthat he had withdrawn all of his licenses and wasn't going to do anything with respect to the securities industry again.
But then in August of 2015, this application for the FINOP was filed, and we were not notified of that fact at the time. So I guess we

have some skepticism as to Mr. Fox's assurances.
JUDGE ELLIOT: All right.
MR. FOX: Your Honor.
JUDGE ELLIOT: Mr. Fox, go ahead.
MR. FOX: Yes. Your Honor, that's a total mischaracterization of the facts. First of all, in December of 2014, Your Honor, I made it clear through my attorney that as part of a settlement, as part of the settlement to put this to bed, I will assure them that I will not be a part of the brokerage business.
That was a part of the settlement conversation. They refused to accept that, which would have been wonderful if they did because we would have had a bigger head start to clean this all up and get the company moving again, but they didn't. That was part of the settlement. That's one.
Two, they did know right away because the SEC is instantly notified of any communication on the FINRA -- sorry, Form U4. They know exactly what is what, and they've been tracking everything I've done for several years now. So to say they didn't know is an absolute falsehood.
And three, Your Honor, to say -- first of

all, they never asked me, they never asked when they said that we didn't tell them -- I'm sorry, Your Honor, I need to twist a little bit here.
They say, Your Honor, I started four different companies. It's actually, Your Honor, three companies, two broker-dealers, two parent companies with broker-dealer, and then one online real estate company. The first one I took public.
I built a self-clearing firm. It was worth half a million dollars. Shareholders made a fortune. We, unfortunately, got stuck with the bubble bursting. We went public in November of '99. The bubble burst in March. Our lock didn't expire until June of 2000. So all shareholders took 18, $19 from a dollar investment.
Our stock was never over three-and-three-quarters after the lockup, and we sold for under $2, and we took E*TRADE stock. The E*TRADE stock, the whole deal was $45,000,000. Their stock diminished before we were able to sell it because of 9-11. And then E*TRADE generated $350,000,000 in appreciation when they announced it.
So everyone got a better deal, our shareholders, E*TRADE who bought us, and then we did, which is why we needed to raise more money; but

the fact that I did that, and was successful for my shareholders and not for myself, and the fact that I dealt with this one, has nothing to do with what I'm going to do next.
I have been, unfortunately, Your Honor, not to sound dramatic here, but I have been tormented and destroyed by this entire process brought upon by somebody who is malicious, vindictive.
I don't want to get into that. It's already on the record, but, Your Honor, I have -- the details, I don't know what they said. I never told them what my plans were going forward.
Your Honor, they never asked me, and certainly not as of late did they ever say, "Mr. Fox what are your plans, or what are you going to do once this business has imploded?"
And I would have said the same thing that I told you, "I don't really know." If I had to venture a guess, I probably said, "I'm going to start to look into real estate, into getting into real estate." My in-laws own some properties.
Maybe I could help manage some of those properties. That's probably the direction that this will take. I do not know. I've been devastated,

Your Honor. I've been [redacted] you know, to try to, you know, whatever make me -- I don't want anyone to feel sympathetic, because I know that is not the process here, but I've been under [redacted], since this all happened because of what has gone on and how malicious this process as has been.
You know, and that's why when Your Honor ruled, the way you ruled, it was such a breath of fresh air, the honestly and the forthrightness. I think we really definitely need to put this to bed, once and for all, Your Honor.
JUDGE ELLIOT: Okay. All right. Here is what I'm going to do -- well, I'll give the Division one more chance. Let me tell you what I'm inclined to do.
I'm inclined to accept Mr. Fox's representations about his plans, the current status of his licenses, the current status of his company, and his asserted lack of interest in participating in the securities industry. So I'm going to take that as true and offer that public interest factors.
Is there an objection to that from the Division?
MS. McKINLEY: No, Your Honor. Although,

I would like to just make sure the record is clear, we respectfully disagree with the characterization Mr. Fox had of settlement discussions. We actually have a letter from Mr. Fox's attorney that we would be happy to share with you describing not in any terms of settlement, but Mr. Fox's withdrawal of his licenses in December of 2014, and his intention not to be involved in the brokerage industry again.

JUDGE ELLIOT: All right. I understand.

MR. FOX: Your Honor.

JUDGE ELLIOT: Hold on. Hold on, Mr. Fox.

MR. FOX: I'm sorry.

JUDGE ELLIOT: Hold on, Mr. Fox. I don't need to hear anymore about that. The point here is that I don't really think there's much of a dispute between the parties on this.

As of December 2014, the way I understand it anyway, the parties are in agreement that, in fact, that's what Mr. Fox told the SEC, and then it turned out he felt the need to apply for a FINOP license in August of 2015.

Mr. Fox, do you agree with that?

MR. FOX: Yes, I do, Your Honor.

JUDGE ELLIOT: Okay. So I think that's

not really disputed between the parties. Okay. Anything else, Ms. McKinley?

MS. McKINLEY: No, Your Honor, not on that point. Thank you.

JUDGE ELLIOT: So I'm going to accept as true what I will call the occupational evidence that Mr. Fox has given me today. And on that understanding, the question then is, do I need anymore briefing on that? I think the answer is no.

As for scienter, Mr. Fox has convinced me that I've given the Division two bites at the apple, and I think that's enough. I don't really think that I need anymore evidence on this.

It sounds like Ms. McKinley's characterization of Mr. Fox's investigative testimony, that even if I were to look at the investigator's testimony, it would not be particularly enlightening.

So I'm not going to ask for any further briefing, and I don't think there is a need for a hearing at this point. So I will simply decide -- I will issue the initial decision based upon the record as it stands.

But just so the Division is on notice about this, I'm not sure what I'm going to determine

in the initial decision yet about Mr. Fox's state of mind. I may find that he acted with scienter. I may not.

I understand he disputes it, but I may find that there is sufficient information, if there's sufficient evidence in the record to conclude that he did, or I may find that he did not act in scienter. I don't know yet. I have to look at it again and think about it some more.

And, of course, if I determine that he acted with scienter, that will factor into whatever the sanction is, if any. And similarly, if I determine that he did not act with scienter, that will affect my determination of what sanctions will be imposed, if any.

So I don't think I need anything more at this point, and we don't need a hearing. So --

MR. FOX: Your Honor, may I ask when you expect to give your final ruling?

JUDGE ELLIOT: You know, I don't know. I will get it out by the deadline, and off the top of my head, I don't recall when the deadline is, but it will definitely be out before then.

MR. FOX: Thank you, Your Honor.

JUDGE ELLIOT: Mr. Fox, anything else you

want to say, any questions you have?

MR. FOX: No, Your Honor, I just really appreciate the Court's consideration.

JUDGE ELLIOT: All right. Ms. McKinley, anything else you want to add?

MS. McKINLEY: Nothing else from the Division. Thank you, Your Honor.

JUDGE ELLIOT: All right. So thank you very much. I think this has actually been very helpful to me having this discussion, and this matter is adjourned.

MR. FOX: Thank you, Your Honor.

MS. McKINLEY: Thank you.

(Whereupon, at 1:40 p.m., the pre-hearing conference was concluded.)

*****e

PROOFREADER'S CERTIFICATE

In the Matter of: JOSEPH J. FOX
ADMINISTRATIVE PROCEEDINGS - PRE-HEARING CONFERENCE
File Number: 3-16795
Date: Monday, March 21, 2016
Location: Chicago, Illinois 60604

This is to certify that I, Donna S. Raya, (the undersigned), do hereby swear and affirm that the attached proceedings before the U.S. Securities and Exchange Commission were held according to the record and that this is the original, complete, true and accurate transcript that has been compared to the reporting or recording accomplished at the hearing.

_____ _____

(Proofreader's Name) (Date)

EXHIBIT 2

FINRA

Financial Industry Regulatory Authority

Richard A. March
Senior Regional Counsel
Financial Industry Regulatory Authority
Department of Enforcement
55 W. Monroe St. Ste. 2700
Chicago, IL 60603
t 312.899.4351 | f 312.899.4600
Richard.March@finra.org

May 18, 2016

VIA CERTIFIED 9414 7266 9904 2023 7316 90
VIA CERTIFIED 9414 7266 9904 2023 7316 83
VIA CERTIFIED 9414 7266 9904 2023 7317 06
VIA CERTIFIED 9414 7266 9904 2023 7317 13
AND FIRST CLASS MAIL

Yosef Y. Fox
[redacted]
Chicago, IL [redacted]

Yosef Y. Fox
[redacted]
Los Angeles, CA [redacted]

Yosef Y. Fox
[redacted]. Apt. [redacted]
Chicago, IL [redacted]

Yosef Y. Fox
[redacted]
Los Angeles, CA [redacted]

Re: **Notice of Suspension (FINRA Rule 9552)**
Yosef Y. Fox, CRD #2386001
Matter No. 20160485272

Dear Mr. Fox:

Notice of Suspension

PLEASE TAKE NOTICE that on June 13, 2016 (the "Suspension Date"), pursuant to FINRA Rule 9552, you will be suspended from associating with any FINRA member in any capacity because you failed to provide information to FINRA, which had been requested from you in accordance with and pursuant to FINRA Rule 8210. Specifically, you failed to respond to requests for information and testimony sent to you on March 25, April 1, April 25 and May 4, 2016. Copies of the subject request letters are attached.

If you take corrective action by complying with the requests before the Suspension Date, the suspension will not take effect. Nonetheless, you may still

be subject to a disciplinary action for your failure to respond timely to a request for information under FINRA Rule 8210.

Request for Hearing

Under FINRA Rule 9552(e), you may request a hearing in response to this Notice. Any hearing request must be in writing, state with specificity any and all defenses to the suspension and be filed with the Office of Hearing Officers. Any request for a hearing shall be made before the Suspension Date. A timely request for a hearing will stay the effective date of any suspension and FINRA Rule 9559 will govern the hearing. Your hearing request should be directed to:

FINRA Office of Hearing Officers
1735 K Street, NW, 2nd Floor
Washington, DC 20006
OHOCaseFilings@finra.org

Pursuant to FINRA Rules 8310(a) and 9559(n), a Hearing Officer or, if applicable, a Hearing Panel, may approve, modify or withdraw any and all sanctions or limitations imposed by this Notice and may impose any other fitting sanction.

Request for Termination of the Suspension

Under FINRA Rule 9552(f), if you are suspended, you may file a written Request for Termination of the Suspension on the ground of full compliance with this Notice. Such request must be filed with:

J.aBradley Bennett, Executive Vice President, Enforcementa
c/o David Camuzo, Directora
FINRAa
Brookfield Place, 200 Liberty Streeta
New York, NY 10281a

Default

If you fail to request termination of the suspension within three (3) months of the date of this Notice of Suspension, you will automatically be barred on August 22, 2016 from associating with any FINRA member in any capacity. *See* FINRA Rule 9552(h).

If you have any questions, please contact me at (312) 899-4351 or David Camuzo at (646) 315-7317.

Very truly yours,

Richard A. March
Senior Regional Counsel

Attachments

cc: Ed Wegener, FINRA, Regional Director, District 8
Jasmine Shergill, Senior Attorney
Peter Johnson, Enforcement

FINRA

Financial Industry Regulatory Authority

May 4, 2016

Sent via First Class Mail and Certified Mail (9414 7266 9904 2053 0539 15)

Mr. Yosef Y. Fox
[redacted]., Apt. [redacted]
Chicago, IL [redacted]

Re: Ditto Trade, Inc. (CRD #151915)
FINRA Exam No. 20160485272

Dear Mr. Fox:

On March 25, 2016, and April 1, 2016 you were sent the enclosed letters to you pursuant to FINRA Rule 8210, requesting documents and information from you concerning the above-referenced matter. Your responses were due by April 1, 2016 and April 8, 2016. To date, we have not received the requested information nor have you requested or received an extension of time to respond. As a result of your failure to respond, you are in violation of FINRA Rule 8210.

This third request is also made pursuant to FINRA Rule 8210. If you fail to deliver the requested information to me by **May 11, 2016**, you may be subject to the institution of an expedited or formal disciplinary proceeding leading to sanctions, including a bar from the securities industry.

This inquiry should not be construed as an indication that FINRA or its staff has determined that any violations of federal securities laws or FINRA, NASD, NYSE, or MSRB rules have occurred. Please call me at (312) 899-4386 if you have any questions.

Sincerely,

Taylor Etzell

Taylor Etzell
Associate Examiner

LH/EtzellI/20160485272

Chicago District Office
55 West Monroe Street, Suite 2700
Chicago, IL 60603-5052

t 312 899 4400
f 312 606 0742
www.finra.org

FINRA

Financial Industry Regulatory Authority

THIRD REQUEST

April 25, 2016n

Sent via First Class Mail and Certified Mail (9414 7266 9904 2053 0526 80)
Yosef Y. Foxn
[redacted] Apt. [redacted]
Chicago, IL [redacted]

Re: Ditto Trade, Inc. (CRD #151915)
FINRA Exam No. 20160485272n

Dear Mr. Fox:n

On March 25, 2016, and April 1, 2016 I sent the enclosed letters to you pursuant to FINRA Rule 8210, requesting documents and information from you concerning the above-referenced matter. Your responses were due by April 1, 2016 and April 8, 2016. To date, I have not received the requested information nor have you requested or received an extension of time to respond. As a result of your failure to respond, you are in violation of FINRA Rule 8210.n

This third request is also made pursuant to FINRA Rule 8210. If you fail to deliver the requested information to me by **May 2, 2016**, you may be subject to the institution of an expedited or formal disciplinary proceeding leading to sanctions, including a bar from then securities industry.n

This inquiry should not be construed as an indication that FINRA or its staff has determined that any violations of federal securities laws or FINRA, NASD, NYSE, or MSRB rules have occurred. Please call me at (312) 899-4687 if you have any questions.n

Sincerely,n

Dave Buchholz
Principal Examinern

ls/scolal/milla/db/20160485272third.doc

cc: Via First Class and Certified Mail (9414 7266 9904 2053 0526 73)
Yosef Y. Foxn
[redacted]
Chicago, IL [redacted]n

Via First Class and Certified Mail (9414 7266 9904 2053 0526 66)
Yosef Y. Foxn
[redacted]
Los Angeles, CA [redacted]

Chicago District Office
55 West Monroe Street, Suite 2700
Chicago, IL 60603-5052

t 312 899 4400
f 312 606 0742
www.finra.org

FINRA

Financial Industry Regulatory Authority

Sent Via Certified (9414 7266 9904 2053 0537 93) and First Class Mail

March 25, 2016

Yosef Y. Fox
[redacted]
Los Angeles, CA [redacted]

Re: Ditto Trade, Inc. (CRD #151915)
FINRA Exam No. 20160485272

Dear Mr. Fox:

You recently advised the Staff that you would be unable to comply with the attached 8210 requests because the building management at 155 North Wacker in Chicago had placed a padlock on the door of your former office where the books and records of Ditto Trade Inc. are located. Assuming such is the case, in connection with the above referenced examination, and pursuant to FINRA Rule 8210, please provide the following documents and information no later than **April 1, 2016**:

1.e Provide a list of all financial institutions where bank accounts were held ine the name of, or for the benefit of, Ditto Trade between August 1, 2015 ande January 31, 2016. Such accounts shall include, but not be limited to, savings, checking, and escrow. The list should include the followinge information:e

- e. name and address of the financial institution;e
- e the account number; ande
- the general purpose of the account.e

2.e For the period August 1, 2015 to January 31, 2016, provide copies ofe bank statements and reconciliations from financial institutions for all of thee bank accounts held in the name of, or for the benefit of, Ditto Trade. If thee statements are not available, please request the statements from thee relevant financial institutions in writing and provide copies of thosee requests in your response.e

Please find the attached addendum which addresses the information requested in this letter. This inquiry should not be construed as an indication that FINRA or its staff has determined that any violations of federal securities laws or FINRA,

Chicago District Office
55 West Monroe Street, Suite 2700
Chicago, IL 60603-5052

t 312 899 4400
f 312 606 0742
www.finra.org

NASD, NYSE, or MSRB rules have occurred. Please call me at (312) 899-4687 if you have any questions.

Sincerely,

Dave Buchholz

Dave Buchholz
Principal Examiner

Enclosure

cc: Yosef Y. Fox
[redacted]
Chicago, IL
Via Certified (9414 7266 9904 2053 0537 86) and First Class Mail

EXHIBIT 3

DITTO TRADE

Joe Fox <jfox@sovestech.com>

RE: SEC Conference Call

1 message

Mark A. Stang <mstang@chuhak.com> Wed, Mar 18, 2015 at 11:42 AM
To: Joe Fox <jfox@sovestech.com>
Cc: "Joe Fox (jfox@dittoholdings.com)" <jfox@dittoholdings.com>, "Stuart Cohn (scohn@dittoholdings.com)" <scohn@dittoholdings.com>

Joe:

Stu and I are standing by for your call.

BTW, Anne apologized, using that word.

Mark

From: Joe Fox [mailto:jfox@sovestech.com]
Sent: Wednesday, March 18, 2015 1:34 PM
To: Mark A. Stang
Cc: Joe Fox (jfox@dittoholdings.com); Stuart Cohn (scohn@dittoholdings.com)
Subject: Re: SEC Conference Call

Why did they mislead us on timing???

Joseph J. Fox

Chief Executive Officer

10250 Constellation Blvd.

23rd Floor

Los Angeles, CA 90067
(213) 489-1601

On Wed, Mar 18, 2015 at 11:31 AM, Mark A. Stang <mstang@chuhak.com> wrote:

Joe:

Still on the call with Anne and Jed. [redacted]

They will not send any offer from Mandel, Ditto, and Fox to DC until they are all in one package. Will send it without your offer only if you take the position you are going to litigate with the Commission. She says they do it this way to cut down on the # of questions from the Commission.

Still on the call, will call you as soon as done.

Mark

DITTO TRADE

Joe Fox <jfox@sovestech.com>

Ditto Holdings, Inc. Offer

1 message

Stu Cohn <scohn@sovestech.com> Tue, Feb 10, 2015 at 2:18 PM
To: Joe Fox <jfox@dittoholdings.com>, "Mark A. Stang" <mstang@chuhak.com>

Fyi.

From: Stu Cohn [mailto:scohn@sovestech.com]
Sent: Tuesday, February 10, 2015 3:02 PM
To: 'Forkner, Jedediah B.'
Cc: 'McKinley, Anne C.'
Subject: Ditto Holdings, Inc. Offer

Mr. Forkner-- Attached is the signed and notarized Offer of Ditto Holdings, Inc.

Sincerely,

Stu Cohn

Stuart A. Cohn
EVP/General Counsel
SoVesTech, Inc.
200 W. Monroe St.
Suite 1430
Chicago, IL 60606
(312) 263-8119 phone
(312) 263-8333 fax
scohn@sovestech.com

From: Forkner, Jedediah B. [mailto:ForknerJ@SEC.GOV]
Sent: Tuesday, February 10, 2015 8:37 AM
To: Stu Cohn
Cc: McKinley, Anne C.
Subject: RE: Ditto Holdings, Inc.

Thank you.

Jedediah B. Forkner

Senior Attorney

Division of Enforcement

U.S. Securities and Exchange Commission

175 West Jackson Boulevard, Suite 900

Chicago, IL 60604-2615

Ph: (312) 886-0883

Fax: (312) 353-7398

From: Stu Cohn [mailto:scohn@sovestech.com]
Sent: Monday, February 09, 2015 10:13 PM
To: Forkner, Jedediah B.
Cc: McKinley, Anne C.
Subject: Ditto Holdings, Inc.

Mr. Forkner-- As indicated, at my request, by Mr. Stang, the company is prepared to submit the signed Offer. Because the Offer requires notarization, I will take care of that and send you the signed, notarized Offer Tuesday.

We appreciate the SEC's concluding a company settlement independent of Mr. Fox's matter, and, also of importance to the company, your facilitating a global settlement of the outstanding matters affecting both Mr. Fox and the company.

Sincerely,

Stu Cohn

Stuart A. Cohn

EVP/General Counsel

SoVesTech, Inc.

200 W. Monroe St.

Suite 1430

Chicago, IL 60606

(312) 263-8119 phonen

(312) 263-8333 faxn

scohn@sovestech.com

From: Forkner, Jedediah B. [mailto:ForknerJ@SEC.GOV]
Sent: Tuesday, February 03, 2015 3:23 PM
To: Stu Cohn
Cc: McKinley, Anne C.
Subject: RE: Ditto Holdings, Inc.

Mr. Cohn:

We received your latest suggested edits and have made changes to the attached drafts of the Offer and Order. We trust that with these edits we now have reached an agreement that Ditto is willing to sign so that we can submit it to the Commission for approval.

We will send you a draft of any release before it is made public, but no release will be drafted unless and until a signed agreement is approved by the Commission. The release would be based on the facts recited in the Order. If you would like to review sample releases, you can find them on our public website (sec.gov).

Thanks,

Jed

Jedediah B. Forkner

Senior Attorney

Division of Enforcement

U.S. Securities and Exchange Commission

175 West Jackson Boulevard, Suite 900

Chicago, IL 60604-2615

Ph: (312) 886-0883

Fax: (312) 353-7398

From: Stu Cohn [mailto:scohn@sovestech.com]
Sent: Monday, February 02, 2015 4:42 PM
To: Forkner, Jedediah B.
Cc: McKinley, Anne C.
Subject: Ditto Holdings, Inc.

Mr. Forkner-- Please see the attached.

Thank you.

Stu Cohn

Stuart A. Cohn

EVP/General Counsel

SoVesTech, Inc.

200 W. Monroe St.

Suite 1430

Chicago, IL 60606

(312) 263-8119 phone

(312) 263-8333 faxo

scohn@sovestech.com

From: Forkner, Jedediah B. [mailto:ForknerJ@SEC.GOV]
Sent: Thursday, January 29, 2015 1:54 PM
To: Stu Cohn
Cc: McKinley, Anne C.
Subject: RE: Ditto Holdings, Inc.

Mr. Cohn:

Attached are revised drafts of the Order and Offer for your review. We considered each of your suggested changes and made those changes that we felt were both appropriate and likely to be acceptable to the Commission. We discussed the reasons for which we are not making some of the changes during our call last week, and I have addressed several additional points below.

- As requested, we reached out to our Chief Counsel's Office in Washington to ask whether we could make the Violation recital explicitly subject to Section VI of the Order. We were told that we could not make that change. However, we don't view that change as being necessary to alleviate your concerns about the recitals being relied upon in other forums. In addition to the language in Section VI, Section III.B makes it clear that Ditto has consented to the Order "without admitting or denying the findings contained in the Order" and that the recitals are "solely for the purposes of these proceedings and any other proceedings brought by or on behalf of the Commission or in which the Commission is a party."
- We are not willing to add the suggested language regarding Jeremy Mann. For starters, it is Commission policy not to name individuals in an Order who are not being sued by the Commission. In addition, it appears that the suggested changes seek to place the blame for Ditto's violation directly on Mr. Mann's shoulders, which we believe to be both factually and legally unsupported.
- We did not change the language of the paragraph regarding the webinars and in-person meetings. We have evidence showing that Mr. Fox participated in at least three webinars and a handful of in-person meetings with Mr. Mandel.
- We attempted to reach a compromise on the language regarding the financial information provided by Ditto and the language regarding Mr. Mandel's role.

We now have gone through a series of edits at your request, and we consider the attached versions of the Offer and Order to be in final form. Please let us know whether the documents are acceptable to Ditto no later than next Wednesday, February 4, 2015. If we do not hear from you by then or if the documents are not deemed acceptable, then we will proceed towards initiating a litigated action.

Thanks,

Jed

Jedediah B. Forkner

Senior Attorney

Division of Enforcement

U.S. Securities and Exchange Commission

175 West Jackson Boulevard, Suite 900

Chicago, IL 60604-2615

Ph: (312) 886-0883

Fax: (312) 353-7398

From: Stu Cohn [mailto:scohn@sovestech.com]
Sent: Wednesday, January 28, 2015 9:24 PM
To: Forkner, Jedediah B.
Cc: McKinley, Anne C.
Subject: Ditto Holdings, Inc.

Dear Mr. Forkner-- Attached is a further revised Offer for Ditto Holdings. Because we are editing our own revised document, and we have already discussed additional revisions but an interim draft has not been circulated (at our request), I thought it best to use highlighting to set out this round of changes. As discussed, the premise of these edits is that if a story must be told, as a "speaking order", then it should be complete and accurate – which includes avoiding omissions which could potentially cause the recitals to give a mistaken impression.

Our changes are highlighted in yellow, and those places where you indicated that you would modify the prior language, and offered to furnish revisions, are highlighted in green.

Sincerely,

Stu Cohn

Stuart A. Cohn

EVP/General Counsel

SoVesTech, Inc.

200 W. Monroe St.

Suite 1430

Chicago, IL 60606

(312) 263-8119 phone

(312) 263-8333 fax

scohn@sovestech.com

Ditto Holdings Offer of Settlement.pdf
769K

From: McKinley, Anne C. [mailto:McKinleyA@SEC.GOV]
Sent: Wednesday, February 25, 2015 4:32 PM
To: Mark A. Stang; Forkner, Jedediah B.
Subject: RE: SEC v. Joe Fox, Settlement Points

Hi Mark:

It may be difficult for either Jed or I to get on a call tonight. Could we talk tomorrow? The bottom line is that we aren't able to meet Mr. Fox's demands and need to move forward with a Wells notice (essentially an official notification that we are planning to recommend charges against him). The Wells notice doesn't mean that we are unwilling to reach a settlement agreement, but does set a clock ticking on filing a case and gives your client the opportunity to make a statement to the Commission on why an action may not be warranted.

Thanks,

Anne

Anne C. McKinley

Assistant Director, Division of Enforcement

U.S. Securities and Exchange Commission

Chicago Regional Office

175 West Jackson Boulevard, Suite 900

Chicago, IL 60604

From: Forkner, Jedediah B. [mailto:ForknerJ@SEC.GOV]
Sent: Monday, February 09, 2015 1:11 PM
To: Mark A. Stang; McKinley, Anne C.
Subject: RE: SEC v. Ditto and Fox -- Settlement (CONFIDENTIAL)

Mark:

We are available for a call at 3:30 this afternoon. Please let us know what number we should call.

Will the proposal include time out of the industry (and a "willful" violation) for Mr. Fox and disgorgement and penalty amounts along the lines of those we discussed late last year? If not, please let us know why you think it would be fruitful to continue discussing remedies.

Thanks,

Jed

Jedediah B. Forkner

Senior Attorney

Division of Enforcement

U.S. Securities and Exchange Commission

175 West Jackson Boulevard, Suite 900

Chicago, IL 60604-2615

Ph: (312) 886-0883

Fax: (312) 353-7398

From: Mark A. Stang [mailto:mstang@chuhak.com]
Sent: Monday, February 09, 2015 12:51 PM
To: Forkner, Jedediah B.; McKinley, Anne C.
Subject: SEC v. Ditto and Fox – Settlement (CONFIDENTIAL)

Anne and Jed:

Would you be available at or after 2 p.m. for a t/c regarding a new global (not bifurcated) settlement proposal of all matters?

Please let me know.

Mark

Mark A. Stang

Chuhak & Tecson, P.C.

30 S. Wacker Drive

Suite 2600

Chicago, Illinois 60606-7413

(312) 855-5445e

(312)368-3877 (Fax)e

mstang@chuhak.com

DITTO TRADE

Joe Fox <jfox@sovestech.com>

FW: Ditto Holdings (C-08037) -- Joe Fox Offer and Order

1 message

Mark A. Stang <mstang@chuhak.com> Fri, Feb 6, 2015 at 9:07 AM
To: "Joe Fox (jfox@dittoholdings.com)" <jfox@dittoholdings.com>, "Stuart Cohn (scohn@dittoholdings.com)" <scohn@dittoholdings.com>

From: Mark A. Stang
Sent: Friday, February 06, 2015 11:06 AM
To: 'Forkner, Jedediah B.'
Cc: McKinley, Anne C.
Subject: RE: Ditto Holdings (C-08037) – Joe Fox Offer and Order

Jed:

I have reviewed the "Offer" you sent yesterday. (I have not reviewed the Order, but assume that it conforms to the "Offer.")

It would be an understatement to say that I am shocked and appalled by what you have sent me, especially with Ditto Holdings on the verge of entering into a stipulated Order (which requires Mr. Fox's approval) with the SEC and the context of our past dealings.

Rather than summarily terminate our discussions at this threshold, I am willing to have a conference call with both of you this afternoon, at a time of your choosing between 2 p.m. and 4 p.m., to explore whether this "Offer" was drafted in an attempt to destroy Mr. Fox's reputation "willfully," as clearly appears to be the case, or with some other less malignant motive.

Cordially,

Mark

Mark A. Stang

Chuhak & Tecson, P.C.

30 S. Wacker Drive

Suite 2600

Chicago, Illinois 60606-7413o

(312)o855-5445o

(312) 368-3877 (Fax)o

mstang@chuhak.com

From: Forkner, Jedediah B. [mailto:ForknerJ@SEC.GOV]
Sent: Thursday, February 05, 2015 3:05 PM
To: Mark A. Stang
Cc: McKinley, Anne C.
Subject: RE: Ditto Holdings (C-08037) -- Joe Fox Offer and Order

Mark:

The draft Offer and Order for Mr. Fox are attached. Please review and let us know your comments.

Thanks,

Jed

Jedediah B. Forkner

Senior Attorney

Division of Enforcement

U.S. Securities and Exchange Commission

175 West Jackson Boulevard, Suite 900

Chicago, IL 60604-2615

Ph: (312) 886-0883

Fax: (312) 353-7398

From: Mark A. Stang [mailto:mstang@chuhak.com]
Sent: Thursday, February 05, 2015 2:26 PM
To: Forkner, Jedediah B.
Cc: McKinley, Anne C.
Subject: RE: Ditto Holdings (C-08037) -- Joe Fox Offer and Order

Jed,

I understand that the Ditto Holdings' Offer and Order are in final form, and will be executed after resolving certain questions about the SEC press release that will issue in connection with the Order.. Because the Ditto documents have been finalized, I request that you send me, per your email below, drafts of an Offer of Settlement and Order for Mr. Fox's consideration and review at your earliest possible convenience.

Thank you,

Mark

Mark A. Stang

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30 S. Wacker Drive

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Chicago, Illinois 60606-7413

(312) 855-5445e

(312)e868-3877 (Fax)e

mstang@chuhak.com

From: Forkner, Jedediah B. [mailto:ForknerJ@SEC.GOV]
Sent: Wednesday, January 07, 2015 9:52 AM
To: Mark A. Stang
Cc: McKinley, Anne C.
Subject: Ditto Holdings (C-08037)

Mark:

I hope you enjoyed the holidays. I wanted to give you a quick update on the draft settlement documents for Joe Fox. As you know, we are working on finalizing the documents for Ditto Holdings. Since we would like the two orders to be consistent, we are planning to wait until the Ditto documents are completed before sending you a draft for Mr. Fox. We hope that we will be able to send you the drafts by next week.

Thanks,

Jed

Jedediah B. Forkner

Senior Attorney

Division of Enforcement

U.S. Securities and Exchange Commission

175 West Jackson Boulevard, Suite 900

Chicago, IL 60604-2615

Ph: (312) 886-0883

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